

Sec. 46-245. Transfer of license.

A chauffeured limousine service license may not be transferred.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-246. Inspection—After accident.

A limousine involved in an accident shall not thereafter be used in limousine operations until it has been inspected by the director. If the director's inspection reveals that the limousine has been damaged to an extent that it is not in a reasonably good operating condition from the standpoint of the safety, health and comfort of passengers, or that the limousine has suffered damage in excess of \$1,000.00, the limousine shall be ordered out of service until the director has authorized the return of the limousine to limousine operations, which authorization shall not be given until proper repairs or corrections have been made.

(Ord. No. 00-960, § 2, 11-1-00)

Sec. 46-247. Accident reports.

When a limousine is involved in an accident or is in a collision with any other vehicle of any kind whatsoever that results in any injury or damage to any person or property, including the limousine but not limited thereto, the driver of the limousine, if a person other than the licensee, shall report the accident to the licensee without delay. The licensee shall report to the director all accidents upon forms to be designated by the director, which shall include the following information: The owner of the limousine, the driver's name, his license number, and the time and location of the accident.

(Ord. No. 00-960, § 2, 11-1-00)

Secs. 46-248—46-275. Reserved.

ARTICLE V. SCHOOL VEHICLES*

DIVISION 1. GENERALLY

Sec. 46-276. Definitions.

When used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Director means the director of finance and administration or his designee.

For hire means in exchange for monetary or other valuable consideration. The term expressly excludes car pooling or ride sharing arrangements for which no fee is imposed.

License means a current and valid license issued under this article.

Licensee means the holder of a license.

School means a public or private facility offering any one or more of: (i) day care or preschool programs, (ii) kindergarten, (iii) regular grades 1 through 12 or (iv) alternative programs for students under 21 years of age who have physical or learning disabilities or other special needs. The term also includes governmentally-sponsored job training centers, regardless of the age of persons attending the centers.

School vehicle means any motorized vehicle, whether a conventional sedan, station wagon, van, bus or other type, that is used for hire to transport students to or from any school that is situated in the city or that is used under the sponsorship of the school to transport students to or from any school-sponsored activity of a school that is situated in the city. The term excludes any vehicle owned or leased by the person who operates the school and operated by that person's employees for the primary purpose of providing transportation to students of the school, and any intrastate or

***Editor's note**—The provisions of Ord. No. 95-103, § 1, adopted Jan. 25, 1995, have been treated as superseding former art. V. div. 1, §§ 46-276—46-282, div. 2, §§ 46-291—46-295, and div. 3, §§ 46-306—46-316, which pertained to similar subject matter. See the Code Comparative Table for a detailed analysis of inclusion.

interstate motor bus operating under Texas Department of Transportation or federal licensing jurisdiction.

Note—Ord. No. 05-940, § 16(a), provides for an effective date of Sept. 1, 2005 for this definition.

State certificate means a current and valid certificate as required by Texas Revised Civil Statutes article 6687b, § 5(a) to evidence that the holder is enrolled in or has completed a driver training course in school bus safety education that has been approved jointly by the Texas Board of Education and the Texas Department of Public Safety. The term additionally means and includes a current and valid driver's license of a class that authorizes the operation of a school vehicle of the largest capacity that the driver will be assigned to drive.

Student means a person who is enrolled in a school.
(Ord. No. 95-103, § 1, 1-25-95; Ord. No. 95-346, § 9, 3-29-95; Ord. No. 05-940, § 8, 8-3-05)

Sec. 46-277. Penalty.

Any person who violates any provision of this article shall be guilty of a misdemeanor, and, upon conviction shall be fined not less than \$100.00 nor more than \$500.00. Each day that any violation continues shall constitute a separate offense.
(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-278. Article is cumulative.

This article is cumulative of all other applicable laws and ordinances. Without limitation, this article is expressly made cumulative of the other articles of this chapter. No vehicle operated under a license or permit issued under another article of this chapter may be utilized as a school vehicle except by additionally complying with this article.
(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-279. Regulations.

The director is authorized to promulgate regulations that are not inconsistent with state law or this Code, for the purpose of carrying out the provisions of this article. The regulations shall be

made available for inspection in the offices of the director, and a copy may be obtained by payment of the fee prescribed by law.
(Ord. No. 95-103, § 1, 1-25-95)

Secs. 46-280—46-285. Reserved.

DIVISION 2. LICENSES

Sec. 46-286. License required.

(a) It shall be unlawful for any person to operate or cause to be operated any school vehicle unless a license has been issued for the operation of the school vehicle under this article.

(b) It shall be unlawful for any person to act as the driver of a school vehicle unless the person is designated as a driver on the license that pertains to that school vehicle. It is a defense to prosecution under this subsection that the vehicle was not being used for the transport of any student at the time of the alleged offense.
(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-287. Application.

(a) Each person desiring to obtain a license shall make application on forms provided by the director and shall include the information requested by the director for implementation of this article. The application shall be completed by and, if granted, issued in the name of the person who owns the entity that will operate the school vehicles. A nonrefundable fee of \$100.00 shall be required to be paid for each application filed. Each application shall be accompanied by:

- (1) A list of vehicles proposed to be utilized;
- (2) A list of the persons who will act as the drivers of the school vehicles proposed to be operated under the license;
- (3) A copy of each proposed driver's state certificate; and
- (4) Evidence of compliance with any qualifications established in this article and any other relevant information that may be requested by the director.

(b) Upon notification by the director, the applicant (including the proprietor if a proprietorship, each partner if a partnership, or each corporate officer, director or holder of ten percent or more of the outstanding stock if a corporation) and all drivers proposed in the application shall present themselves to the police department for identification and fingerprinting to determine if any of them has been convicted of any applicable offense(s) as set forth in item (4) of subsection (a) of section 1-10 of this Code. If so, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing.

(Ord. No. 95-103, § 1, 1-25-95; Ord. No. 05-940, § 9, 8-3-05)

Note—Ord. No. 05-940, § 16(a), provides for an effective date of Sept. 1, 2005 for this section.

Sec. 46-288. Review.

(a) Following review of the application, the director shall notify the applicant of intent to issue the license unless:

- (1) The applicant or any proposed driver is determined to be unfit in accordance with the criteria of section 1-10 of this Code following a hearing under section 1-9 of this Code;
- (2) The applicant fails to demonstrate that each proposed driver has a state certificate;
- (3) The applicant, if a natural person, is not yet 18 years old;
- (4) The applicant, or a representative of the applicant who shall be designated as the liaison with the director, is unable to read and write the English language;
- (5) Any information provided in the application was materially incomplete or false; or
- (6) The applicant has had a license issued under this chapter or a school bus license issued by ordinance revoked or not renewed for cause by the city within the five-year period next preceding the date of filing of the application.

(b) In the event that the application is denied, the applicant shall be given written notice of each reason for the denial. If the application is denied

in whole or in part upon the basis of first criterion specified above, the applicant shall be entitled to appeal the decision regarding the first criterion in the manner provided by the applicable state law. If the application is denied in whole or in part on the basis of any of criteria (2) through (6), above, then the applicant may request a hearing regarding the denial under those criteria by submitting a written notice of appeal to the director within 15 days following the date that notice of the director's decision is deposited in the United States mail, addressed to the applicant. The director shall cause an informal hearing to be conducted on the matter by a disinterested hearing officer who shall render a decision within 30 days from the date of the filing of the appeal. In the hearing, the burden shall be upon the applicant to demonstrate that he is entitled to the issuance of the license.

(c) If the reason for the denial of an application is curable, the director shall allow the applicant upon the applicant's request to submit an amendment within the time allowed in subsection (b) for an appeal, in lieu of filing of an appeal. If the application is again denied, the applicant shall still be entitled to file an appeal within 15 days following the date that notice of the director's decision regarding the amended application is deposited in the United States mail, addressed to the applicant.

(d) If the application is approved, the actual license shall not be issued until the applicant has provided proof of vehicle ownership for each school vehicle, caused each school vehicle to be inspected, and provided proof of insurance for each school vehicle as required under sections 46-290, 46-292 and 46-293 of this Code, and has made payment of the annual license fee prescribed in section 46-289 of this Code.

(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-289. Annual license fee.

(a) There is hereby assessed an annual fee which shall be payable by each licensee on or before September 1 of each year, provided that the director shall alternatively allow the fee to be

paid in installments, with one half due by September 1 and the balance by the following February 1.

(b) The amount of the fee shall be equal to \$70.00 for each licensed school vehicle having a capacity of 15 or fewer passengers, \$90.00 for each licensed school vehicle having a capacity of at least 16 but not more than 59 passengers, and \$115.00 for each school vehicle having a greater capacity. Each of the foregoing capacities shall be computed as including the driver. There shall be no fee for replacement of a vehicle with another vehicle of equivalent capacity. In the event that a license is issued after March 1, or in the event that an additional vehicle is placed into service after March 1, then an amount equal to one-half of the foregoing fees shall be payable for the balance of the annual fee period.

(c) In the event that any licensee fails to pay the fee or any installment before the applicable due date, his license shall be suspended, and no school vehicle may be operated under the license. If the fee or installment is not paid by the thirtieth day following the due date, the license shall terminate and not thereafter be subject to renewal, provided that the former license holder may apply for a new license in the manner specified in this article.

(d) The fee imposed under this section is based upon an estimate of the fee allowed by Texas Revised Civil Statutes article 6698 in the amount of two percent of gross receipts. Any licensee who wishes to do so may keep a record of gross receipts in the manner prescribed by regulation of the director. Within 90 days following the expiration of any license year (September 1 to August 31) a licensee who has kept a record of gross receipts in the prescribed form may apply to the director for a refund of any portion of his total fees paid under this section for the previous license year that exceeds two percent of the licensee's gross receipts from the operation of all licensed school vehicles. The refund application shall be made on a form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the licensee in the form approved by the director. The application as well as any

supplementary material required by the director must be accompanied by an affidavit signed and sworn to by or on behalf of the licensee. The licensee shall state that the application (or supplement) and all attachments thereto are correct and complete and do not omit any material item, and that the licensee either: (i) has personal knowledge of each matter affirmed, or (ii) has conducted a thorough investigation into each matter affirmed. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall either:

- (1) Refund or credit to the account of the licensee the amount by which the total fees paid for the previous calendar year exceed two percent of the licensee's total gross receipts for the previous calendar year; or
- (2) Deny the refund. If the refund is denied, the director shall give written notice of the reason and, upon request, shall afford the licensee an informal hearing on the matter before a disinterested hearing official.

(e) The fees provided in this section are also made expressly applicable to school bus licenses issued by ordinance and shall apply in lieu of any other fees that may be stated in the license ordinance.

(Ord. No. 95-103, § 1, 1-25-95; Ord. No. 95-346, § 10, 3-29-95)

Sec. 46-289.1 Physician's certificate; medical examinations.

For each person designated as a driver in an application for a license, an applicant shall have at all times on file in the office of the director a certificate from a duly licensed physician, which certificate is not more than two years old, showing that the physician has examined the person and that the person has no disability or ailment that would prevent the person from safely operating a school vehicle. The director shall have the authority to require a medical examination and the provision of a replacement certificate at any time upon five days' notice in writing to a licensee or driver if the director has cause to believe that

the driver's medical condition has materially changed or that the previously filed certificate is otherwise no longer accurate.

(Ord. No. 05-940, § 10, 8-3-05)

Note—Ord. No. 05-940, § 16(a), provides for an effective date of Sept. 1, 2005 for this section.

Sec. 46-289.2 Drug screening.

For each person designated as a driver in an application for a license, an applicant shall provide or cause to be provided evidence that each person has passed a drug screening test within the 30 day period preceding the date of filing of the application for issuance or renewal. The director shall promulgate rules and regulations relating to the drug screening test. The director may require an annual drug screening test for all persons designated as a driver in an application. The test procedure shall be equivalent to that prescribed by the mayor for pre-employment drug screenings for city employees. The director shall authorize laboratories and facilities that meet nationally recognized standards to obtain samples and perform the tests. The responsibility for obtaining the test and all costs associated therewith shall rest with the applicants.

(Ord. No. 05-940, § 10, 8-3-05)

Note—Ord. No. 05-940, § 16(a), provides for an effective date of Sept. 1, 2005 for this section.

Sec. 46-289.3 Criminal history check.

Upon initial application for a license, upon the filing of an amended application adding one or more new drivers, and at license renewal intervals of five years, the director shall cause the criminal history of each person designated as a driver in an application to be researched by the Texas Department of Public Safety and the FBI. Each person designated as a driver in an application shall complete any forms required for the director to obtain the report, and the applicant shall present the required completed forms to the director, along with funding in a manner specified to cover any fees imposed by state or federal agencies for the report. The provision of this requirement shall not be construed to preclude the director from obtaining interim reports at the expense of the city.

(Ord. No. 05-940, § 10, 8-3-05)

Note—Ord. No. 05-940, § 16(a), provides for an effective date of Sept. 1, 2005 for this section.

Sec. 46-290. Vehicle inspection.

(a) It shall be unlawful for any person holding a school vehicle license issued under this article or a school bus license issued by ordinance to drive or cause to be driven any school vehicle while in service for the transportation of any student, unless the vehicle has been inspected as required in this section or inspected and permitted by the Texas Department of Transportation.

(b) Each vehicle shall be inspected before it is initially placed into service and thereafter during August of each year by the director at such location as the director may specify. The director shall approve the vehicle if he determines that:

- (1) The vehicle has current Texas registration and required Texas vehicle inspection stickers for both safety and air quality, if applicable;
- (2) That the vehicle is marked as provided in section 46-301 of this Code;
- (3) The vehicle is in generally sound working condition with no apparent safety-related defects and has a functioning speedometer and odometer;
- (4) The vehicle has a lap or lap/shoulder seat belt for the driver and for each passenger seating space to the extent required by state law; and
- (5) The vehicle has no seats that have been added in excess of the manufacturer's specifications.

(c) Upon the satisfactory completion of the inspection, the director shall issue and permanently affix a certification decal to the windshield of the vehicle. In any prosecution under this section, it shall be presumed that a vehicle has not been inspected as required in this section unless it has a current and valid certification decal affixed.

(d) Replacement certification decals shall only be provided upon reinspection of the vehicle.

(Ord. No. 95-103, § 1, 1-25-95; Ord. No. 05-940, § 11, 8-3-05)

Note—Ord. No. 05-940, § 16(a), provides for an effective date of Sept. 1, 2005 for subsection (a) of this section.

Sec. 46-291. Drivers, vehicles.

(a) A license shall be valid only for the operation of the school vehicles designated thereon and driven by the persons designated as drivers in the application, provided that each driver designated continues to maintain a current and valid state certificate. No licensee shall suffer or permit the driving of any school vehicle while in service for the transportation of any student by a person not designated as a driver on the application. It shall also be the duty of each licensee to ensure that no driver designated on the application continues to operate any school vehicle in the event that the driver's state certificate expires without renewal or is revoked or suspended by the state.

(b) A licensee may add or delete drivers from those listed on the application by filing an amended application with the director for that purpose, which shall be accompanied by a filing fee of \$10.00. A copy of the state certificate shall be furnished for each person proposed to be added as a driver. Each proposed new driver shall also present himself to the police department for identification and fingerprinting to check for compliance with section 1-10 of this Code. The procedures established in section 1-9 of this Code shall be followed if it appears that any proposed driver has been convicted of any prohibited offense(s). The director shall act on each amendment to add drivers within ten days following its filing.

(c) School vehicles may be added to or deleted from a license by filing an amended application listing the vehicles to be added or deleted and providing proof of insurance and ownership for vehicles to be added as specified in sections 46-292 and 46-293 of this Code. Added vehicles may not be placed into service until they have been inspected and certified in accordance with section 46-290 of this Code. It shall be the duty of the licensee to return the certification decal or remnants thereof for any vehicle that is removed from the licensee's authorized fleet.
(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-292. Insurance.

(a) Each vehicle operated by any licensee under his license shall be covered by liability insurance meeting all requirements of Chapter 643 of the Texas Transportation Code.

(b) The policy must be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Additionally, the policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director. In the event that a policy terminates or is cancelled without replacement, then the license to which it pertains shall be suspended, and no school vehicle may be operated under the license. If a proper replacement policy is not provided to the director on or before the date of termination or cancellation of the policy, the license shall automatically terminate.

(c) Proof of the insurance required in this section shall be accepted only in the authorized form that has been promulgated by the city and adopted by the Texas Automobile Insurance Plan Association. A copy of the authorized form has been placed on file for inspection in the office of the city secretary, and it is adopted as a part of this Code by reference.

(Ord. No. 95-103, § 1, 1-25-95; Ord. No. 95-346, § 11, 3-29-95; Ord. No. 96-1011, § 5, 9-25-96; Ord. No. 05-940, § 12, 8-3-05)

Note—Ord. No. 05-940, § 16(a), provides for an effective date of Sept. 1, 2005 for subsection (a) of this section.

Sec. 46-293. Ownership of vehicles, use of drivers.

(a) Each school vehicle must be registered to or leased on a long-term basis of at least a year to the licensee who operates the vehicle, a copy of which title or lease shall be provided to the director.

(b) Each driver of a school vehicle, other than the proprietor of a proprietorship-licensee or partner of a partnership-licensee, shall be a salaried employee of the licensee.

(c) It is the express intent of the city council in establishing the requirements of this section to ensure that licensees are fully responsible for the maintenance and operation of their school vehicles and to avoid any sort of scheme or artifice in which school vehicles are operated by persons who "lease" licenses or drive vehicles as "independent contractors." The director shall promulgate any regulations that are necessary to carry out

this section. Without limitation, the regulations may require that each licensee make his drivers' payroll records available for inspection and copying by the director to verify compliance. (Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-294. Transfer, non-exclusive.

(a) A license is personal to the licensee to whom it is issued and may not be sold, transferred or conveyed by operation of law or otherwise.

(b) Each license is non-exclusive, and no limits or restrictions shall exist upon the number of school vehicles that may be licensed, provided that each must be operated pursuant to a license and in accordance with all applicable requirements of this article.

(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-295. Terms, suspension.

(a) A license shall be valid for five years from the date of its initial issuance.

(b) A license may be sooner terminated by operation of law as provided in sections 46-289 and 46-292 of this Code for failure to pay annual fees or maintain required insurance.

(c) A license may be revoked or refused for renewal based upon the applicable grounds specified in section 1-10 of this Code by following the procedures specified in section 1-9 of this Code.

(d) Additionally, a license may be revoked or refused for renewal following notice and a hearing conducted by an impartial hearing officer appointed by the director if:

- (1) The license or any amendment thereto was issued through error;
- (2) The applicant provided materially false or incomplete information on the license application or any amendment thereto; or
- (3) There are three or more instances within any period of one year in which the licensee or any employee violates any provision of this article or regulation issued by the director hereunder.

(Ord. No. 95-103, § 1, 1-25-95)

Secs. 46-296—46-300. Reserved.

DIVISION 3. OPERATING RULES

Sec. 46-301. Marking of vehicles.

Each school vehicle shall be conspicuously marked on the right and left sides and upon the rear with the name of the licensee and the licensee's local telephone number. The information shall be in characters at least three inches high and having a brush stroke width of at least three-eighths of an inch.

(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-302. Contracts required.

Each licensee under this article shall have a contract in writing authorizing the carriage of each student who is transported.

(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-303. Picking up and delivering students.

Each driver shall ensure that students are loaded and offloaded in a safe manner that does not invite hazardous exposure to traffic or other hazards.

(Ord. No. 95-103, § 1, 1-25-95)

Sec. 46-304. Standees, seat belts.

(a) To the extent required by state law, each school vehicle shall be equipped with a functioning seat belt for each passenger seating space.

(b) It shall be unlawful for the driver of a school vehicle to allow any greater number of persons to be on board the vehicle than the seating capacity of spaces.

(c) It shall be the duty of the driver of each school vehicle to exercise reasonable caution to ensure that the vehicle is not in motion at any time when any person is not seated and does not have his seat belt attached, if seatbelts are required by state law.

(Ord. No. 95-103, § 1, 1-25-95)

Secs. 46-305—46-320. Reserved.

ARTICLE VI. JITNEYS**DIVISION 1. GENERALLY****Sec. 46-321. Definitions.**

When used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Director means the director of finance and administration or his designee.

Jitney means a motorized passenger vehicle having a manufacturer's rated seating capacity of not less than four nor more than 15 persons including the driver, that is operated upon a closed loop route following specified streets and highways in a specified direction, and is operated without a fixed schedule, carrying passengers from place to place in exchange for a fee.

License means a current and valid license issued under division 2 of this article.

Licensee means the holder of a license.

Permit means a current and valid permit issued under division 2 of this article.

Permittee means the holder of a permit.

Route means the route for a jitney, as filed with the director in accordance with section 46-340 of this Code.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-322. Penalty.

Any person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100.00 nor more than \$500.00. Each day that any violation continues shall constitute a separate offense.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-323. Article is cumulative.

This article is cumulative of all other applicable laws and ordinances. Without limitation, this article is expressly made cumulative of division 5 of article II of chapter 9 of this Code. The director shall not approve a route that involves the operation of a jitney upon any airport terminal complex unless the permittee has first obtained an airport use permit for use of that jitney upon that route.

(Ord. No. 95-613, § 5, 6-14-95)

Secs. 46-324-46-330. Reserved.**DIVISION 2. LICENSES AND PERMITS****Sec. 46-331. Permit required.**

It shall be unlawful for any person to drive or operate or cause to be driven or operated any jitney unless a permit has been issued for the operation of the jitney under this article.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-332. License required.

It shall be unlawful for any person to drive a jitney unless the person holds a license issued for the driving of a jitney under this article.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-333. Fees.

(a) There shall be no fee for the issuance of a license.

(b) There shall be a nonrefundable processing fee of \$100.00 payable upon the filing of each application for one or more permits, regardless of the number of permits requested.

(c) In addition to the application fee provided in subsection (b) of this section, an annual permit fee shall be payable for each jitney before it is placed into service and annually thereafter, as more particularly provided in section 46-336 of this Code.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-334. Application.

(a) Each person desiring to obtain a license or one or more permits shall make application on forms provided by the director and shall include the information requested by the director for implementation of this article.

(b) Upon notification by the director, each applicant (including the proprietor if a proprietorship, each partner if a partnership, or each corporate officer, director or holder of ten percent or more of the outstanding stock if a corporation) shall present himself to the police department for identification and fingerprinting to determine if he has been convicted of any applicable offense(s) as set forth in item (4) of subsection (a) of section 1-10 of this Code. If so, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing if timely requested.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-335. Review.

(a) Following review of the application, the director shall issue or notify the applicant of intent to issue the permit(s) or license unless:

- (1) The applicant is determined to be unfit in accordance with the criteria of section 1-10 of this Code following a hearing under section 1-9 of this Code, if a hearing is timely requested;
- (2) If the application is for one or more permits, the applicant failed to specify the number of vehicles (and also to provide the make, model, manufacturer's rated seating capacity and vehicle identification number for each vehicle, if the applicant has acquired the vehicles);
- (3) The applicant, if a natural person, is not yet 18 years old;
- (4) The applicant, or a representative of the applicant who shall be designated as the applicant's liaison with the director, is unable to read and write the English language;
- (5) The applicant failed to provide written character references from two persons who have known the applicant for at least two years

and who attest that the applicant is of good moral character, which references shall be from persons who reside in the city unless the applicant has not resided in the city or county for the preceding period of five years;

- (6) If the application is for a license, the applicant failed to demonstrate that he holds a current and valid class A, B or C Texas driver's license;
- (7) If the application is for a license, the applicant failed to provide medical evidence from a Texas licensed physician on a certificate form promulgated by the director attesting that the applicant is not subject to any disability that would cause the applicant to be unable to safely operate a jitney;
- (8) The applicant failed to provide any other information reasonably requested by the director for administration of this article;
- (9) Any information provided in the application was materially incomplete or false; or
- (10) The applicant has had a license, permit or franchise issued under any article of this chapter revoked or not renewed for cause by the city within the five-year period next preceding the date of filing of the application.

(b) In the event that the application is denied, the applicant shall be given written notice of each reason for the denial. If the application is denied in whole or in part upon the basis of the first criterion specified above, the applicant shall be entitled to appeal the decision regarding the first criterion in the manner provided by the applicable state law. If the application is denied in whole or in part on the basis of any of criteria (2) through (10), above, then the applicant may request a hearing regarding the denial under those criteria by submitting a written notice of appeal to the director within 15 days following the date that notice of the director's decision is deposited in the United States mail, addressed to the applicant. The director shall cause an informal hearing to be conducted on the matter by a disinterested hearing officer who shall render a decision within 30 days from the date of the filing of the appeal. In

the hearing, the burden shall be upon the applicant to demonstrate that he is entitled to the issuance of the license or permit.

(c) If the reason for the denial of an application is curable, the director shall allow the applicant, upon the applicant's request, to submit an amendment within the time allowed in subsection (b) for an appeal, in lieu of filing of an appeal. If the application is again denied, the applicant shall still be entitled to file an appeal within 15 days following the date that notice of the director's decision regarding the amended application is deposited in the United States mail, addressed to the applicant.

(d) If the application is for a license, then the license shall be issued upon the approval of the application. Following approval of an application for one or more permits, the actual permits shall not be issued until the applicant has provided the make, model, manufacturer's seating capacity and vehicle identification number of each jitney, if not provided with the application, and also has paid the annual fee, obtained an inspection certificate, provided proof of insurance, provided proof of ownership or lease and filed routes and rate data, all as provided by sections 46-336 through 46-340 of this Code for each jitney.
(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-336. Annual permit fee.

(a) There is hereby assessed an annual permit fee of \$400.00 per jitney, which shall be payable on or before June 1 of each year, provided that the director shall alternatively allow the fee to be paid in two installments, with one half due by June 1 and the balance by December 1. In the event that a permit is issued after December, then an amount equal to one-half of the foregoing fees shall be payable for the balance of the annual fee period.

(b) There shall be no fee for replacement of a jitney with another jitney.

(c) In the event that any permittee fails to pay the fee or any installment before the applicable due date for any permit, the permit shall be suspended, and no jitney may be operated under the permit. If the fee or installment is not paid by

the thirtieth day following the due date, the permit shall terminate and not thereafter be subject to renewal, provided that the former permittee may apply for a new permit in the manner specified in this article.

(d) The fee imposed under this section is based upon an estimate of the fee allowed by Texas Revised Civil Statutes article 6698 in the amount of two percent of gross receipts. Any permittee who wishes to do so may keep a record of gross receipts in the manner prescribed by regulation of the director. Within 90 days following the expiration of any permit year (June 1 to May 31) a permittee who has kept a record of gross receipts in the prescribed form may apply to the director for a refund of any portion of his total fees paid under this section for the previous license year that exceeds two percent of the permittee's gross receipts from the operation of the vehicle to which the permit pertains. The refund application shall be made on a form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the permittee in the form approved by the director. The application as well as any supplementary material required by the director must be accompanied by an affidavit signed and sworn to by or on behalf of the permittee. The permittee shall state that the application and all attachments thereto are correct and complete and do not omit any material item, and that the permittee either: (i) has personal knowledge of each matter affirmed, or (ii) has conducted a thorough investigation into each matter affirmed. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall either:

- (1) Refund or credit to the account of the permittee the amount stated on the application; or
- (2) Deny the refund. If the refund is denied, the director shall give written notice of the reason and, upon request, shall afford the permittee an informal hearing on the matter before a disinterested hearing official.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-337. Vehicle inspection.

(a) It shall be unlawful for any person to drive or operate or cause to be driven or operated any jitney, unless the jitney has been inspected as required in this section and has a current and valid certification decal affixed.

(b) Each jitney shall be inspected before it is initially placed into service and thereafter before October 1 of each year by the director at such location as the director may specify. The director shall approve the jitney if he determines that:

- (1) The jitney has current Texas registration and required Texas vehicle inspection stickers for both safety and air quality, if applicable;
- (2) The jitney is of the required color and is marked as provided in this article;
- (3) The jitney is in generally sound working condition with no apparent safety-related defects, including inspection or testing of the speedometer, odometer, horn, windshield wipers, mirrors, steering, service brake, parking brake, tires, exhaust system, high beam indicator, tail lamp, stop lamps, license plate lamp, rear reflectors, turn signal lamps and headlamps.
- (4) The jitney has a lap or lap/shoulder seat belt for the driver and for each passenger seating space to the extent that the vehicle was so equipped by the manufacturer;
- (5) The jitney has no seats that have been added in excess of the manufacturer's specifications; and
- (6) The jitney complies with all other applicable requirements of this article.

(c) Upon the satisfactory completion of the inspection, the director shall issue and permanently affix a certification decal to the lower right portion of the windshield of the jitney. In any prosecution under this section, it shall be presumed that a jitney has not been inspected as required in this section unless it has a current and valid certification decal affixed.

(d) Replacement certification decals shall only be provided upon reinspection of the jitney.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-338. Insurance.

(a) Each jitney operated by any permittee under his permits shall be covered by public liability insurance meeting all requirements of Texas Revised Civil Statutes article 6701h and having policy limits of not less than the minimum coverage amounts required by law.

(b) The policy must be issued by a company listed as an authorized auto liability lines carrier on the Texas Department of Insurance's List of Authorized Insurance Companies. Additionally, the policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director. In the event that a policy terminates or is cancelled without replacement, then each permit to which it pertains shall be suspended, and those jitneys may not be operated. If a proper replacement policy is not provided to the director on or before the date of termination or cancellation of the policy, the permit shall automatically terminate. Proof of the insurance required in subsection (a) shall be accepted only in the authorized form that has been promulgated by the city and adopted by the Texas Automobile Insurance Plan Association. A copy of the authorized form has been placed on file for inspection in the office of the city secretary, and it is adopted as a part of this Code by reference.

(c) In lieu of proof of insurance as provided in subsections (a) and (b), the permit holder may be self-insured and provide a certificate of self-insurance issued pursuant to Chapter 601 of the Texas Transportation Code.

(Ord. No. 95-613, § 5, 6-14-95; Ord. No. 96-1011, § 6, 9-25-96)

Sec. 46-339. Ownership of vehicles; use of drivers.

(a) Each jitney must be registered to or leased on a long-term basis of at least a year to the permittee who operates the jitney, a copy of which title or lease shall be provided to the director.

(b) Each driver of a jitney, other than the proprietor of a proprietorship-permittee or partner of a partnership-permittee, shall be a salaried employee of the permittee.

(c) It is the express intent of the city council in establishing the requirements of this section to encourage owner operation of jitneys, to ensure that permit holders are fully responsible for the maintenance and operation of their jitneys and to avoid any sort of scheme or artifice in which jitneys are operated by persons who "lease" licenses or drive vehicles as "independent contractors." The director shall promulgate any regulations that are necessary to carry out this section. Without limitation, the regulations may require that each permittee make his drivers' payroll records available for inspection and copying at the offices of the director to verify compliance.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-340. Rates; routes.

(a) Each jitney shall be operated upon a route, including a direction of travel upon that route, that has been filed by the permittee with the director. The permittee may file two or more routes for the same jitney if each route is specified for use during different times that are clearly specified. The rate shall be a fixed amount, per person, for transportation from any place on the route to any other place on the route. Rates may either be constant or may be differentiated between peak and off-peak hours, provided that the hours during which each rate will be imposed are specified.

(b) Rates and routes may be amended from time to time. Routes shall not be exclusive. A fee of \$30.00 shall be imposed for each route or rate filing, per jitney. Each route application that involves use of airport facilities shall be accompanied by the proof required under section 46-323 of this Code.

(c) The director shall provide rate and route cards for each jitney that shall be conspicuously posted in the manner specified by regulation of the director. The route card shall state the route and the rate. The information shall also be painted on the rear quarter panel of the vehicle on each side in a manner prescribed by the director. The director may assign route numbers and may issue different colors of route cards to signify fare

amounts. Cards shall remain the property of the city and shall be surrendered to the director upon request.

(d) It shall be unlawful for the driver of any jitney while in service with any passenger for hire on board to deviate from the route or to deviate from the direction of travel as filed with the director for that jitney.

(e) It shall be unlawful for the driver of any jitney to impose a fare other than as filed with the director.

(f) It shall be unlawful to drive or operate or cause to be driven or operated any jitney without the current rate cards posted as provided by the director for the jitney.

(g) Following notice and a hearing, the director may cancel any route that was authorized in error.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-341. Transfer; nonexclusive.

(a) A license or permit is personal to the licensee or permittee to whom it is issued and may not be leased, rented, sold, transferred or conveyed by operation of law or otherwise. Provided, any change of proprietor, change of partnership interests or change of corporate officer, director or

holder of ten percent or more of the outstanding shares of stock as shown on the permit application shall render a permit void, unless an application for transfer is filed within ten days following the effective date of the change. The director shall promulgate procedures for the processing of amendments and may suspend the permit(s) pending the completion of the processing if any additional person who has acquired an interest in the business is determined to have been convicted of an applicable offense as provided in item (4) of subsection (a) of section 1-10 of this Code. The fee for filing an application amendment shall be \$100.00.

(b) Each permit is nonexclusive, and no limits or restrictions shall exist upon the number of jitneys that may be permitted, provided that each must be operated pursuant to a permit and in accordance with all applicable requirements of this article.
(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-342. Terms; suspension.

(a) A license or permit shall be valid for five years from the date of its issuance.

(b) A license or permit may be sooner terminated by operation of law as provided in sections 46-336 and 46-338 of this Code for failure to pay annual permit fees or maintain required insurance.

(c) A license or permit may be revoked or refused for renewal based upon the applicable grounds specified in section 1-10 of this Code by following the procedures specified in section 1-9 of this Code.

(d) Additionally, a license or permit may be revoked or refused for renewal following notice and a hearing conducted by an impartial hearing officer appointed by the director if:

- (1) The license or permit was issued through error;
- (2) The applicant provided materially false or incomplete information on the license or permit application; or
- (3) There are three or more instances within any period of one year in which the licensee

or permittee or any permittee's employee violates any provision of this article or regulation issued by the director hereunder.

(e) In accordance with regulations promulgated by the director, a jitney permit may be amended, without charge, for the limited purpose of adding, deleting or substituting jitney vehicles.
(Ord. No. 95-613, § 5, 6-14-95)

Secs. 46-343—46-350. Reserved.

DIVISION 3. OPERATING REQUIREMENTS

Sec. 46-351. Driver appearance.

(a) It shall be the duty of every jitney driver to be hygienically clean, well groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while a jitney is in his or her custody.

(b) Drivers shall be clean-shaven, and facial hair shall be neatly trimmed. If a beard or moustache is worn, it shall be well groomed and neatly trimmed at all times in order not to present a ragged appearance.

(c) The term "suitably dressed" shall be interpreted to mean the driver shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments.

(d) Clothing that is not considered appropriate and is not permitted, when the driver is in charge of a jitney includes: T-shirts, underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-352. Jitney equipment.

It shall be unlawful for any person to drive or operate or cause to be driven or operated any jitney that is not marked, painted and equipped as provided in this section. Each jitney shall:

- (1) Be painted a uniform color of white, a sample of which color is on file with the director;

- (2) Be equipped with a light-equipped roof sign, which shall have the word "jitney" visible from the front and rear in red letters at least three inches tall with a brush stroke of at least $\frac{5}{16}$ inch upon a white background and shall be illuminated at all times while the jitney is in service;
- (3) Have no taxi meter;
- (4) Have the word "jitney" painted on each side of the vehicle in black in letters at least 12 inches tall with a brush stroke width of at least one inch.
- (5) Have the following signage in letters not less than three inches in height nor less than $\frac{5}{16}$ of an inch in brush stroke and of contrasting color to the background:
 - a. The name and telephone number of the permittee and rate structure on both front doors;
 - b. The telephone number of the permittee on the rear deck or trunk lid;
 - c. The permit number on the right side of the trunk or rear deck, the right side of the hood, and below the rear door handle on each side of the vehicle; and
 - d. The street names or route name below the permit number on each side of the vehicle;
- (6) Have a dashboard-mounted holder of a type approved by the director in which shall be mounted the operator's license, a photograph of the operator and one set of rate and route cards provided by the director under section 36-340(d) of this Code; and
- (7) Have a radio, mobile telephone or other means of two-way communication that may be used to request assistance in the event of an emergency.

The information required in items (2), (4) and (5) above shall be painted upon the vehicle, provided that the director may allow the street name or route name information only to be posted upon a magnetic sign or other removable sign of durable materials.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-353. Age of vehicle.

No person shall drive or operate or cause to be driven or operated any jitney that is more than five years old. For purposes of this requirement, a jitney is considered to be five years old on the thirty-first day of May of the fifth year following the manufacturer's model year of the jitney, regardless of the date of its original purchase or the date it was first placed into service.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-354. Operating requirements.

(a) It shall be the duty of the driver to ensure that his jitney is operated in accordance with this section.

(b) Solicitation of passengers is unlawful. However, a jitney driver may indicate available space by gesture from within the jitney and may stop when flagged or hailed by a potential passenger.

(c) No jitney shall stop or stand to pick up or discharge any passenger at a bus stop or in a taxicab zone.

(d) No jitney shall stop or stand to pickup or discharge any passenger at any place that is not upon the streets and highways designated upon the route.

(e) No jitney shall stop or stand upon the public streets or other public property, except as required to comply with lawful traffic control devices and to discharge and pick up passengers.

(f) Additional passengers shall have the right to utilize the jitney up to the manufacturer's rated seating capacity.

(g) A log shall be maintained within each jitney in a form prescribed by the director setting forth the hours of work of each driver. No driver shall operate a jitney for more than 12 hours in any 24-hour period. Each permittee shall maintain the log for a period of six months and shall make the same available for inspection or copying upon request at the offices of the director.

(Ord. No. 95-613, § 5, 6-14-95)

Sec. 46-355. Inspection.

The director may inspect any jitney and any records or documents required to be carried in or upon the jitney at any time upon presentation of identification to the driver in order to determine operation in compliance with the provisions of this article and the regulations adopted hereunder by the director.

(Ord. No. 95-613, § 5, 6-14-95)

Secs. 46-356—46-360. Reserved.

ARTICLE VII. VALET PARKING SERVICES

DIVISION 1. GENERAL

Sec. 46-361. Definitions.

As used in this article, the following terms shall have the meanings ascribed in this section, unless the context of their usage clearly indicates another meaning:

Attendant means a person who operates a vehicle between a pick-up and drop-off point and a parking location on behalf of a valet operator.

Central business district means the area beginning at the intersection of the centerline of U.S. 59 and the centerline of I.H. 45; thence in a northeasterly and northerly direction along the centerline of I.H. 45 to its intersection with the centerline of I.H. 10; thence in an easterly direction along the centerline of I.H. 10 to its intersection with the centerline of U.S. 59; thence in a southwesterly direction along the centerline of U.S. 59 to its intersection with I.H. 45, the point of beginning.

Director means the director of the department of finance and administration and his duly authorized representatives.

Permit means a current and valid permit issued to a valet operator pursuant to division 2 of this article.

Permittee means a person who holds a permit under this article to operate a valet parking service, and includes any employee, agent, or independent contractor of the permittee.

Pick-up and drop-off point means a designated location where an attendant takes possession of a vehicle for the purpose of parking and returns the vehicle to the possession of the driver thereof.

Principal means the valet operator and also includes in the case of a proprietorship the proprietor and the proprietor's spouse, in the case of a partnership each partner, and in the case of a corporation each officer, each director and each other person who holds ten percent or more of the outstanding shares. For any other form of entity, the term shall include the equivalent persons as determined by the director.

Roadway means any portion of a street that is improved, designed or maintained for vehicular use, including but not limited to travel and parking.

Valet operator means a person whose business is or includes the provision of valet parking service through use of a pick-up and drop-off point on a roadway.

Valet parking service means accepting, parking and returning a vehicle on behalf of the operator of the vehicle regardless of whether a fee is charged.

Valet parking service stand means a temporary, removable structure located near the pick-up and drop-off point that is utilized by the valet operator for the general conduct of the valet parking service, including the dispatch of attendants and the storage of keys, umbrellas and other items.

Valet zone has the meaning ascribed by section 45-2 of this Code.

(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-362. Prohibited activities.

(a) It is unlawful for any person to provide valet parking service without a permit. It shall be an affirmative defense to prosecution under this subsection that the operation of a valet parking

service occurs entirely on private property and does not use any portion of a roadway for a pick-up and drop-off point.

(b) It is unlawful for a permittee to operate, or cause to be operated, a valet parking service in violation of any term of a permit.

(c) It is unlawful for any valet operator to fail to display a permit or a true copy thereof as required by this article. In any prosecution under this article, it shall be presumed that there is no permit if the permit or a true copy thereof is not properly displayed.

(d) It is unlawful for any valet parking operator to park a vehicle or to cause or allow a vehicle to remain parked at any curbside parking space or any other portion of the roadway within the central business district in the course of providing valet parking service. Any person who violates any provision of this subsection shall be guilty of an offense and, upon conviction thereof, shall be punished by a fine of not less than \$150.00 nor more than \$500.00 for each violation. Each act of parking a vehicle in violation of this subsection shall constitute and be punishable as a separate offense. A violation of this subsection is a penal offense and shall not be subject to civil adjudication pursuant to article XVI of chapter 45 of this Code.

(e) Within the central business district it is unlawful for any valet parking operator to utilize any place on the roadway that is not a valet zone as a pick-up and drop-off point.

(f) It is unlawful for any valet parking operator to fail to identify a vehicle as required by section 46-402(10) of this Code.
(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-363. Provisions cumulative.

The provisions of this article are cumulative of all other provisions of this Code and other city ordinances, including, without limitation, building and fire codes, as well as all applicable state and federal laws and regulations. Compliance with this article does not excuse compliance with

any other law, and permittees are additionally required to obtain any other permits, licenses, and authorizations required by law.
(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-364. Duty of valet parking operator.

It shall be the duty of every valet parking operator to cause each of the operator's attendants to comply with the requirements of this article and any permit issued hereunder.
(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-365. No private rights in street.

Nothing in this article shall be construed to give any person, whether or not a permittee, any property right in or to the use of any street. All permits issued and held under this article shall be subject to the superior right of the public to the safe and orderly movement of traffic.
(Ord. No. 03-703, § 3, 7-30-03)

Secs. 46-366—45-390. Reserved.

DIVISION 2. PERMITS

Sec. 46-391. Permit applications.

Any person who desires to operate a valet parking service in the city shall submit an application for a permit to the director in a form promulgated by the director for that purpose, which shall include the following:

- (1) The applicant's name, telephone number, mailing address and street address;
- (2) The name and mailing address of each principal of the applicant;
- (3) The indemnity and release form provisions that are specified in section 46-393(b) of this Code;
- (4) Proof of insurance required by section 46-401 of this Code;
- (5) Criminal history information for every principal as required by the director to determine compliance with section 1-10 of this Code; and

- (6) Any other information reasonably required by the director for purpose of processing the application under the requirements of this article.

(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-392. Issuance; denial; fee.

(a) An application that contains all of the information required by section 46-471 of this Code shall be a complete application. A complete application shall be approved and the permit shall be issued upon payment of the fee specified by subsection (c) below unless:

- (1) The information provided in the application is materially false or incorrect or the applicant has failed in any material way to comply with this article;
- (2) The applicant or an entity owned or controlled by the applicant or any of the principals of the applicant has had a permit revoked during the preceding one year period;
- (3) The director determines that proof of insurance provided by the applicant does not meet the requirements of section 46-401 of this Code; or
- (4) The applicant or any of its principals is not in compliance with the criminal history provisions of section 1-10 of this Code.

(b) In the event that an application is denied, the director shall promptly inform the applicant in writing of the reasons for the denial. The applicant, upon written request, shall be afforded an opportunity for a hearing regarding the denial before the director or a hearing officer appointed by the director. The appeal process shall be conducted in accordance with rules promulgated by the director for that purpose. If the denial is based in whole or in part upon section 1-10 of this Code, then the notice and hearing procedures shall also include any requirements to comply with section 1-9 of this Code and applicable state laws. The determination of the hearing examiner with respect to the application shall be final, unless otherwise provided by law.

- (c) The annual fee for a permit shall be an amount set by the city council by motion upon the recommendation of the director. No portion of the fee shall be refundable.

(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-393. Permit conditions.

(a) Each permit shall specify the following terms, which shall be the conditions under which the permittee is authorized to conduct the valet parking service:

- (1) Name of the permittee; and
- (2) That the permittee must comply with all applicable requirements of this article.

(b) As a part of its application, each applicant shall sign the following indemnity and release, which shall be a condition of each permit:

"THE PERMITTEE AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO ANY PERFORMANCE UNDER THIS PERMIT, INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

1. THE PERMITTEE'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN LETTERED PARAGRAPHS 1—3, "PERMITTEE'S") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
2. THE CITY'S AND THE PERMITTEE'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE

GENCE, WHETHER THE PERMITTEE IS IMMUNE FROM LIABILITY OR NOT; AND

3. THE CITY'S AND THE PERMITTEE'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER THE PERMITTEE IS IMMUNE FROM LIABILITY OR NOT.

THE PERMITTEE SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THE PERMIT AND FOR TWO YEARS AFTER THE PERMIT EXPIRES. THE PERMITTEE'S INDEMNIFICATION IS LIMITED TO \$500,000.00 PER OCCURRENCE.

THE PERMITTEE AGREES TO AND SHALL RELEASE THE CITY FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THE PERMIT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE."

(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-394. Revocation.

(a) Following notice and a hearing, a permit may be revoked if:

- (1) Any information supplied in the permit application was materially false or incorrect;
- (2) The permit was issued through error;
- (3) The holder of the permit has failed to comply with any applicable provision of the permit or this article;
- (4) The permittee fails to perform under the release and indemnity required by section 46-393(b); or
- (5) The permittee or any of its principals are not in compliance with the criminal history provisions of section 1-10 of this Code.

(b) At least ten days' notice of a revocation hearing shall be provided to the permittee by depositing the same in the United States mail, first class, certified, return receipt requested, addressed to the address of the permittee shown in the permit application. The notice shall set forth the alleged grounds for the revocation and the date, time and place for the hearing. If the revocation is based in whole or in part upon section 1-10 of this Code, then the notice and hearing procedures shall also include any requirements to comply with section 1-9 of this Code and applicable state laws.

(c) The burden of demonstrating that a permit should be revoked shall be upon the city. The permittee may also present evidence and cross examine witnesses. The hearing shall be conducted by a hearing officer appointed by the director, who shall revoke the permit if he determines by a preponderance of the evidence that grounds exist for revocation. The decision of the hearing officer to revoke a permit shall be made in writing and shall set forth the grounds therefor. The hearing officer's determination shall be final.

(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-395. Term.

A permit shall be valid for one year from its date of issuance. A permit may be renewed by filing an application pursuant to section 46-391 of this Code at least 30 days prior to the expiration of the permit. A renewal permit application shall be reviewed and approved pursuant to section 46-392 of this Code.

(Ord. No. 03-703, § 3, 7-30-03)

Secs. 46-396—46-400. Reserved.

DIVISION 3. REQUIREMENTS FOR OPERATING A VALET PARKING SERVICE

Sec. 46-401. Insurance.

The permittee shall maintain insurance coverage continuously during the term of its permit, in each case in accordance with the terms of this section through any combination of primary and excess coverage and, in the case of claims made

coverage, for an additional two years thereafter. The insurance required by this section shall insure against the following risks in at least the following amounts:

<i>Coverage</i>	<i>Limit of Liability</i>
Commercial General Liability: Including Broad Form Coverage	Bodily Injury and Property Damage, Combined Limits of \$300,000.00 each Occurrence and \$300,000.00 Aggregate
Automobile Liability Insurance	\$300,000.00 Combined Single Limit per Occurrence
Garage Insurance: Including Comprehensive and Collision Coverage for Physical Damage, Coverage for Vehicle Storage and Coverage for Vehicle Driven by or at Direction of Permittee	\$300,000.00 Combined Single Limit

Defense costs are excluded from the face amount of the policy. Aggregate Limits are per 12-month policy period unless otherwise indicated.

Each policy must state that it may not be canceled, materially modified, or nonrenewed unless the insurance company gives the director 30 days' advance written notice. The permittee shall give written notice to the director within five days of the date on which total claims by any party against the permittee reduce the aggregate amount of coverage below the amounts required by this section. A permit shall be automatically suspended without any requirement for action by the city or notice to the permittee for any period of time that any of the insurance required by this section is not in effect. In addition, the director may cause the permit to be revoked for cause for failure to maintain insurance pursuant to section 46-394 of this Code.

(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-402. Valet parking service operations.

A permittee shall operate the permitted valet parking service in accordance with the following requirements:

- (1) The permittee shall maintain one valet parking service stand that meets the re-

quirements of section 46-405 of this Code at each location where the permittee provides valet parking service;

- (2) The permittee shall operate a pick-up and drop-off point only in the curb lane of the roadway;
- (3) The permittee shall not park or allow the parking of vehicles in a pick-up and drop-off point;
- (4) The permittee shall not cause or allow the standing of any vehicle in a pick-up and drop-off point for more than five minutes, inclusive of loading and unloading passengers, taking possession of or returning a vehicle and all other functions relating to the acceptance or return of a vehicle, as applicable;
- (5) The permittee shall ensure that the valet parking service does not unreasonably interfere with safe traffic operations of roadways, driveways, and intersections;
- (6) Except as provided in subsection 46-405(a) of this Code or otherwise authorized by a permit issued pursuant to article XVI of chapter 40 of this Code, the permittee shall not place signs, cones, or any other object in a roadway, parking space, or sidewalk, or otherwise block or hinder movement of pedestrian or vehicular traffic;
- (7) The permittee shall not place or allow the placement of a sign identifying or advertising the valet parking service on a roadway or sidewalk unless the sign is located on the valet parking service stand;
- (8) The permittee shall provide each patron with a pre-numbered receipt indicating the valet parking fee, if any; the name, address, and telephone number of the valet operator; and information on obtaining a vehicle after the hours of valet parking service operation;
- (9) The permittee shall display a true and correct copy of the permit required by this article at each valet parking service stand;

- (10) Promptly upon receipt of each vehicle for valet parking service, the permittee shall clearly identify the vehicle by affixing a ticket hang tag to the inside rear view mirror of the vehicle that identifies the valet service operator;
 - (11) The permittee shall provide a secure location for the storage of keys and shall not store keys with the parked vehicle; and
 - (12) The permittee shall comply with all applicable traffic control laws, devices and markings and shall conduct valet parking services only where and when vehicles may lawfully park and stand.
- (Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-403. Additional valet parking service operations requirements in central business district.

In addition to the requirements of the preceding section, in the central business district a permittee shall not cause or allow the standing of vehicles in any moving lane of traffic approaching the pick-up and drop-off point.

(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-404. Attendant requirements.

It is the duty of the permittee to ensure that no person at any time performs as an attendant unless the person meets each of the criteria of this section for an attendant. Each attendant shall:

- (1) Be 18 years of age or older;
- (2) Operate vehicles in compliance with all applicable federal, state and local laws, and in a manner that assures the safety of persons and property;
- (3) Possess a valid state class A, B, or C driver's license with no more than two convictions for offenses that occurred within any 12-month period during the preceding three years as a result of moving traffic violations;
- (4) Wear a name tag, which may be permanently affixed to a shirt, jacket, cap or

other item of clothing, identifying the attendant by name and the valet operator; and

- (5) Perform his duties in a courteous and professional manner.

If the permittee, or any principal of a permittee, performs as an attendant, the permittee or principal must satisfy each of these requirements. The permittee shall maintain the information necessary to demonstrate compliance with item (3) of this section. The permittee shall retain the records at its principal office in the city for a period of three years. The director shall have the right, upon request, to inspect and copy these records of the permittee to determine compliance with the requirements of the permit.

(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-405. Valet parking service stand.

(a) The permittee shall provide one valet parking service stand at each location where the permittee provides valet parking service. The valet parking service stand may be located within the building for whose benefit the valet parking service is provided or wholly on private property. A valet parking service stand shall not be located on a roadway unless expressly authorized by a permit issued pursuant to article XVI of chapter 40 of this Code. Any valet parking service stand located in whole or in part on a roadway or sidewalk shall:

- (1) Occupy a portion of the roadway or sidewalk no greater than four feet by four feet or one-half the width of the sidewalk if the sidewalk is less than eight feet wide;
- (2) Not be affixed to the roadway or sidewalk in any manner;
- (3) Be easily moveable by one person;
- (4) Be removed from the roadway or sidewalk when the valet parking service is not being operated;
- (5) Have affixed a sign not larger than four feet high by four feet wide with an area no smaller than 12 inches by 18 inches indicating:
 - a. The name of the operator of the valet parking service; and

- b. The fee for the valet parking service, if any;
- (6) Be secured and locked when left unattended; and
- (7) Display a true and correct copy of the permit.

(b) If the valet parking service stand is located within a building, the permittee shall provide a portable sign that meets the requirements of item (a)(5) of this section on the sidewalk or roadway at the pick-up and drop-off point.
(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-406. Parking areas.

All vehicles parked by an attendant shall be legally parked in conformance with city ordinances.
(Ord. No. 03-703, § 3, 7-30-03)

Sec. 46-407. Permit subject to police regulation.

All valet operations are subject to temporary suspension when a police officer determines that the continued operation of the valet service constitutes a hazard to the public safety and welfare, including but not limited to, interfering with the safe operation of the streets for pedestrians and the normal flow of traffic.
(Ord. No. 03-703, § 3, 7-30-03)

Secs. 46-408—46-420. Reserved.